

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

MAY 29 1998

PATRICK FISHER
Clerk

DOUGLAS TYLER WOODS,

Petitioner - Appellant,

v.

ARISTEDES ZAVARAS; BILL
WILSON, and ATTORNEY
GENERAL OF THE STATE OF
COLORADO,

Respondents - Appellees.

No. 97-1395

(D. Colorado)

(D.C. No. 96-M-1964)

ORDER AND JUDGMENT*

Before **ANDERSON, McKAY, and LUCERO**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Petitioner Douglas Tyler Woods appeals the district court's dismissal, without prejudice, of his 28 U.S.C. § 2254 habeas petition for failure to exhaust state remedies. The district court also denied a certificate of appealability. We have examined the record in this case, and conclude that Mr. Woods has failed to make a substantial showing of the denial of a constitutional right. We therefore deny Mr. Woods a certificate of appealability and dismiss his appeal. While Mr. Woods has filed copies of documents purporting to show exhaustion, there is no dispute that his claims were not exhausted at the time he filed his habeas petition. Claims must be exhausted before the petition is filed to satisfy the exhaustion requirement. See Demarest v. Price, 130 F.3d 922, 932 (10th Cir. 1997); Parkhurst v. Wyoming, 641 F.2d 775, 776 (10th Cir. 1981).

Mr. Woods' various other outstanding motions are denied. His petition for leave to proceed in forma pauperis is denied as moot, in light of the district court's previous grant of leave to proceed in forma pauperis. Appeal
DISMISSED.

ENTERED FOR THE COURT

Stephen H. Anderson
Circuit Judge